

ST 02-0274-GIL 12/30/2002 TELECOMMUNICATIONS EXCISE TAX

Facsimile transmission services are subject to Illinois Telecommunications Excise Tax. See 86 Ill. Adm. Code 495.110 (This is a GIL).

December 30, 2002

Dear Xxxxx:

This letter is in response to your letter dated October 21, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

We have enclosed for your review the Illinois section of a sales tax manual we have prepared. The manual was created to illustrate the sales taxability of various transactions potentially occurring in the state of Illinois.

Our request of your department is that you review, at your convenience, the enclosed section of the sales tax manual to assure our interpretations and understandings of Illinois law are accurate. We are not requesting a private letter ruling or similar formal request. We simply wish to obtain added assurance as to sales tax treatment of various transactions. If your response could be in writing, it would be greatly appreciated.

If you have any questions or need additional information, please do not hesitate to contact #.

Although the Legal Services Office of the Illinois Department of Revenue does not endorse sales tax manuals, we have reviewed the materials you submitted. We note there are some incomplete statements.

As a technical proposition, the Illinois Department of Revenue issues tax exemption identification numbers ("E" numbers), not exemption certificates, to organizations that qualify as exclusively religious, charitable, or educational. Sales to governmental bodies are subject to tax unless the governmental body has obtained an active exemption identification number from the Department. See 86 Ill. Adm. Code 130.2080.

Your flowchart entitled "Delivery Charges" implies that if delivery charges are separately stated they are not taxable to the extent they do not exceed actual costs. Please be advised the question of

whether delivery charges may be deducted by retailers in calculating Retailers' Occupation Tax liability depends not upon the separate billing of such delivery charges but upon whether the charges are included in the selling prices of the property or are contracted for separately by purchasers and retailers. The best evidence that delivery charges were agreed to separately and apart from selling prices, are separate and distinct contracts for freight or shipping. Alternatively, documentation in the records of sellers that purchasers had options of taking delivery of the property at sellers' locations, for the agreed purchase prices, or having delivery made by sellers for the agreed purchase prices plus ascertainable delivery charges, may suffice. Please refer to 86 Ill. Adm. Code 130.415.

Your page entitled "Business Center Services" lists several items under the "Service" column. You are correct to state that office supplies are subject to sales tax. However, please note that charges for facsimile transmission services are subject to the Illinois Telecommunications Excise Tax. The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. Retailers of telecommunications include persons who provide facsimile transmission services. See 86 Ill. Adm. Code 495.100 and 495.110, enclosed.

The sale of other services you list would be service transactions that may result in either Service Occupation Tax or Use Tax liability. For your general information see 86 Ill. Adm. Code 140.101 through 140.109 regarding sales of service and Service Occupation Tax. The serviceman's liability may be calculated in one of four ways: 1. separately stated selling price of tangible personal property transferred incident to service; 2. 50% of the serviceman's entire bill; 3. Service Occupation Tax on the serviceman's cost price if he is a registered de minimis serviceman; or, 4. Use Tax on the serviceman's cost price if he is a de minimis serviceman not otherwise required to be registered under Section 2a of the Retailers' Occupation Tax Act.

In regards to the first three methods, service customers incur a corresponding Service Use Tax liability. The last method imposes a Use Tax liability on the serviceman, not his service customer. Without more knowledge regarding the tax base that the serviceman uses (see the first three methods above), we cannot determine if the business would be required to collect and remit Service Use Tax from its Illinois customers.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz  
Associate Counsel

KWB:mks  
Enc.